

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

Roger Allen Dyke,

Plaintiff,

v.

Michael Staphen, Lisa Young,
Anite Stevens, Laura H. Kawaguchi,

Defendants.

Civil Action No. 6:18-cv-00402-TMC

ORDER

Plaintiff, proceeding pro se and *in forma pauperis*, brought this action pursuant 42 U.S.C. § 1983. In accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02, D.S.C., this matter was referred to a magistrate judge for pretrial handling. On March 16, 2018, the magistrate judge entered an order that Plaintiff that his complaint was not in proper form and instructed Plaintiff how to bring his case in proper form for service. (ECF No. 5). On April 2, 2018, Plaintiff signed and returned the complaint form that the court had provided him, but it was not properly completed. (ECF No. 1-2). On April 3, 2018, the magistrate judge entered a second order that advised Plaintiff that his case was not in proper form. (ECF No. 12). This order warned Plaintiff that failure to bring his case into proper form could result in dismissal of his case for failure to prosecute. (ECF No. 12 at 1). On April 17, 2017, Plaintiff returned summons forms to the court. (ECF No. 18). On April 19, 2018, the magistrate judge issued a third order that advised Plaintiff that his case was not in proper form. (ECF No. 21). With this order, the court included a pre-printed complaint form and instructed Plaintiff to complete it and return it. *Id.* The court explained to Plaintiff that he should go into “as much detail as possible” about the events that gave rise to Plaintiff’s claims and that Plaintiff should state how each defendant was involved. *Id.* Plaintiff was warned that if he did not comply with this order, the case may be dismissed for failure to prosecute. *Id.* As of today, Plaintiff has still failed to bring the complaint into proper form.

Before the court is the magistrate judge's Report and Recommendation ("Report"), which recommends that this case be dismissed for failure to prosecute and failure to comply with an order of the court, pursuant to Federal Rule of Civil Procedure Rule 41(b). (ECF No. 27). Plaintiff was notified of his right to object to the Report (ECF No. 27 at 6), but Plaintiff filed no objections. The time to do so has now run.

The Report has no presumptive weight and the responsibility to make a final determination in this matter remains with this court. *See Mathews v. Weber*, 423 U.S. 261, 270–71 (1976). In the absence of objections, this court is not required to provide an explanation for adopting the Report. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Rather, "in the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 Advisory Committee's note).

After a careful and thorough review of the record under the appropriate standards, as set forth above, the court finds that Plaintiff's case is subject to dismissal for failure to prosecute under Federal Rule of Civil Procedure 41(b) for failure to comply with court orders. Accordingly, the court adopts the Report (ECF No. 27), and incorporates it herein. Therefore, this case is **DISMISSED without prejudice.**

IT IS SO ORDERED.

s/Timothy M. Cain
United States District Judge

Anderson, South Carolina
June 12, 2018

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.